

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1906 OF 2006

Ramdas Sabaji Padale & Ors. .. Petitioners

V/s

State of Maharashtra & Ors. .. Respondents

Mr.S.B. Deshmukh for the Petitioners.

Mr.S.R. Nargolkar, A.G.P. for Respondent No.1.

Mr.A.V. Anturkar for Respondents No.2 and 3.

Mr.D.J. Khambata with Mr.Riyaz Chagla, Ms.Mallika Iyer,
Ms.Seeta Kapadia i/b Federal & Rashmikant for Respondent
No.4.

CORAM : H.L. GOKHALE &
J.P. DEVADHAR, JJ.

DATE OF RESERVING THE JUDGMENT : 6TH OCTOBER 2006

DATE OF PRONOUNCING THE JUDGMENT: 19TH OCTOBER 2006

JUDGMENT : (Per H.L. Gokhale, J.)

1. Heard the counsel for the parties.

2. This writ petition is filed by persons who are claiming to be inhabitants of Mahabaleshwar in a society known as "Ramgad Society". They claim that the structures wherein they are staying are very old. Their houses are situated on Survey No.153/6, Malkum Peth, Mahabaleshwar. They rely upon the documents to submit that they are occupying the structures prior to the Development Plan of 1985 coming into force.

3. One Shamrao Tapase had filed a civil application in P.I.L. No.39 of 2003 filed by Bombay Environment Action Group, which P.I.L. is filed for protection of the environment of Mahabaleshwar. In that civil application, it was pointed out that the Applicant and some others are also occupying their structures since prior to 1985. It is pointed out that the said civil application was disposed of by an order dated 7th December 2005 passed by a Division Bench by directing that all concerned should be heard and the submissions of the occupants that their structures existed prior to the Development Plan should be considered.

4. This petition is filed by some 18 of the occupants of Ramgad Society. They claim to be persons belonging to economically weaker section of the society and are seeking protection of their structures constructed prior to 1985.

5. Inasmuch as the Petitioners were fearing demolition in view of P.I.L. No.39 of 2003, we have heard Mr.Khambata for the Petitioners in that P.I.L. He stated that he has no particular objection to these structures being regularised if they existed prior to 1985, though each case should be examined on case to case basis. They will qualify any such regularisation

on humanitarian basis only if those structures are used for housing purpose. The regularisation be permitted provided they are in existence prior to 1985. We have recorded this statement in P.I.L. No.39 of 2003.

6. In view of the above, we dispose of this petition by directing the Municipal Council and the State to protect those structures which existed prior to 1985 provided they have evidence to that effect and provided the persons belong to economically weaker section and the structures are used for housing purpose only.

7. Petition stands disposed of.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR J.)